

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CIV 19-0157 MV/KBM  
CR 03-2066 MV/KBM

BENJAMIN RAYMOND,

Defendant-Movant.

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition on July 3, 2019, (*Doc. 10*)<sup>1</sup>, in which she recommended that Benjamin Raymond's ("Raymond's") Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 (*Doc. 1*) be granted to the extent that he sought to vacate the Amended Judgment entered November 8, 2016. The Magistrate Judge further recommended that Attorney Benjamin Gonzales be reappointed to represent Raymond and file a brief to address the following issues: (1) the applicable guideline range for a new amended judgment; (2) whether an actual hearing must be held to permit allocution by both Defendant and his counsel; and (3) any other issues related to sentencing that counsel wishes to raise. *Doc. 10* at 3.

The proposed findings notified the parties of their ability to file objections and that failure to do so waives appellate review. As of today, no objections have been filed and

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<sup>1</sup> Citations to "Doc." refer to docket numbers filed in Civil Case No. 19-0157 MV/KBM.

there is nothing in the record indicating that the proposed findings were not delivered.

Wherefore,

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 10*) are **ADOPTED**;
2. Benjamin Raymond's Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 (*Doc. 1*) is **GRANTED** to the extent that he seeks to vacate the November 8, 2016 Amended Judgment;
3. Attorney Benjamin Gonzales is reappointed to represent Raymond in briefing to the Court;
4. The parties shall file, within 30 days from entry of this Order, simultaneous briefs to the Court addressing the applicable guideline range for a new amended judgment and indicating whether a hearing with allocution by Raymond and his counsel is necessary.

  
UNITED STATES DISTRICT JUDGE